

1 Ira M. Schwartz, (SBN 010448)  
2 **Parker Schwartz, PLLC**  
3 7310 N. 16<sup>th</sup> Street, Suite 330  
4 Phoenix, Arizona 85020  
5 *Telephone:* (602) 282-0477  
6 *Facsimile:* (602) 282-0478  
7 [ischwartz@psazlaw.com](mailto:ischwartz@psazlaw.com)  
8 *Attorneys for Plaintiff*

9  
10 UNITED STATES DISTRICT COURT  
11  
12 DISTRICT OF ARIZONA

13 Jay J. Falconer, an individual

14 Case No.: \_\_\_\_\_

15 Plaintiff,

16 vs.

17 Tin The Thao, an individual; and Luna Lan  
18 an individual,

19 Defendants.

20  
21 **COMPLAINT**

22  
23 **(Copyright Infringement)**

24  
25 **(DEMAND FOR JURY TRIAL)**

26  
27 Jay J. Falconer (“Falconer”) for his complaint against Tin The Tao and Luna  
28 Lan, complains and alleges as set forth below.

29  
30 **Parties and Jurisdiction**

31  
32 1. Jay J. Falconer is a resident of Maricopa County, Arizona.  
33  
34 2. Upon information and belief Tin The Thao (“Thao”) is a resident of Vietnam.  
35  
36 3. Upon information and belief Luna Lan (“Lan”) is a resident of Vietnam.

PARKER SCHWARTZ, PLLC  
7310 North 16<sup>th</sup> Street, Suite 330  
Phoenix, Arizona 85020

4. This matter involves claims of copyright infringement. The actions of infringement occurred on YouTube, and upon information and belief infringing acts have occurred in this district.

5. Jurisdiction is proper in this court pursuant to 28 U.S.C. §1338.

6. Venue is proper in this district pursuant to 28 U.S.C. §1391.

## Count 1

## Copyright Infringement

7. Falconer is a well known author of fiction books. Many of his books have been Amazon best sellers and he is also a USA Today Bestselling Author.

8. Among Falconer's works is a series of books issued under the series title *Bunker*, including the following works:

- a. *Bunker: Born to Fight*, aka Bunker Book 1
- b. *Bunker: Dogs of War* aka Bunker Book 2
- c. *Bunker: Code of Honor* aka Bunker Book 3
- d. *Bunker: Lock and Load* aka Bunker Book 4
- e. *Bunker: Zero Hour* aka Bunker Book 5. (These books are collectively referred to as the “Bunker Series Books.”)

9. The above books have been issued the following copyright registrations by the U.S. Copyright Office:

a. *Bunker: Born to Fight*, aka Bunker Book 1 – Copyright Reg. No. TXu002051149 issued in 2017.

b. *Bunker: Dogs of War* aka Bunker Book 2 – Copyright Reg. No.

TXu002042650 issued 2017.

c. *Bunker: Code of Honor* aka Bunker Book 3 - NA

d. *Bunker: Lock and Load* aka Bunker Book 4 – Copyright Reg. No.

TXu002068067 issued 2017.

e. *Bunker: Zero Hour* aka Bunker Book 5 – Copyright Reg. No.

TXu002072208 issued 2017.

10. Falconer has sold over one-hundred thousand copies of his Bunker Series Books. These books are regularly available and sold on Amazon and through various other outlets.

11. Falconer also sells his Bunker Series Books in audio format through Amazon's Audible outlet and through other sources.

12. Falconer has recently learned that Defendants have copied the audio versions of his Bunker Series Books, and they have published and made these infringing versions of the Bunker Series Books on YouTube.

13. Defendants made the infringing versions of the Bunker Series Books without Falconer's authorization and in violation of federal copyright law.

14. Such actions violate Falconer's exclusive rights as the owner of the copyrights in his Bunker Series Books

1       15. At least one version of the infringing works created by the Defendants was  
2 previously available at the following online YouTube URL:  
3 <https://www.youtube.com/watch?v=sHqG7v4xEeY> (the “Infringing YouTube Work”).  
4

5       16. The Infringing YouTube Work version of Falconer’s Bunker Series Books  
6 appears to be an unauthorized recording made by recording the Audible audio book version  
7 of the Bunker Series Books. This online version of the Infringing YouTube Work was a  
8 recording of the continuous audio streaming of his Bunker Series Books 1-5 which were then  
9 uploaded into one YouTube recording.  
10

11       17. Falconer did not authorize the Defendants to make the Infringing YouTube  
12 Work, or any other version of the Bunker Series Books, or to copy, distribute, or publish it.  
13

14       18. The Infringing YouTube Work violates Falconer’s copyrights in his Bunker  
15 Series Books.  
16

17       19. On November 1, 2023, Falconer issued a copyright takedown notice to  
18 YouTube regarding the Infringing Work, pursuant to 17 U.S.C. §512.  
19

20       20. YouTube removed the Infringing YouTube Work from its website.  
21

22       21. On November 2, 2023, the Defendants issued a copyright counter-notification  
23 falsely claiming that their work was authorized by Tokybook.com.  
24

25       22. Falconer has never authorized Tokybook.com to copy, reproduce, distribute,  
26 or publish his works in any format.  
27

28       23. The counter-notification is false.  
29

1       24. Unless restrained, YouTube will permit the Infringing Work to be reposted on  
2 its service. Such action would cause irreparable harm and injury to Falconer.

3       25. Defendants' actions have caused harm and damage to Falconer in an amount  
4 to be proven at trial. Alternatively, Plaintiff is entitled to recover statutory damages for these  
5 acts of infringement.

6       26. Any copying, reproduction, distribution, or publication of Falconer's works by  
7 Defendants will cause irreparable injury to Falconer. Falconer is entitled to injunctive relief.

8       27. Upon information and belief, Defendant's actions were willful. Falconer is  
9 entitled to maximum statutory damages of up to \$150,000 per act of infringement.

10      WHEREFORE, Falconer requests relief as follows:

11       A. For actual damages in the amount to be proven at trial;  
12       B. In the alternative, for statutory damages for Defendants' acts of  
13       copyright infringement, pursuant to 17 U.S.C. § 504.

14       C. For a Court Order prohibiting and restraining Defendants, their  
15 employees, agents, representatives and all persons in active concert with them, or any of  
16 them, from any further actions of infringement, including but not limited to prohibiting and  
17 restraining the restrained parties from making any copies, reproductions, or recordings of  
18 any of Falconer's copyrighted works; and from publishing or distributing any copies,  
19 reproductions or recordings, including any text or audio recording of the Bunker Series  
20 Books, or any derivatives thereof in any manner or in any medium, including through  
21 YouTube.

1                   D.     For a Court Order directing and requesting YouTube to refrain from  
2 posting or permitting any reposting, online viewing, distribution or downloading of any  
3 video or audio recording of the Bunker Series Books.  
4

5                   E.     For Falconer's court costs and attorneys' fees incurred in this matter  
6 pursuant to 17 U.S.C. §505.  
7

8                   F.     For interest on all above amounts from the date of judgment until paid.  
9

10                  G.     For such other relief as the Court deems just and proper.  
11

12                  DATED this date: November 9, 2023.  
13

14                  **Parker Schwartz, PLLC**  
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16                  By *s/Ira M. Schwartz*  
17                  Ira M. Schwartz  
18                  7310 North 16<sup>th</sup> Street  
19                  Suite 330  
20                  Phoenix, Arizona 85020  
21                  Attorneys for Plaintiff  
22  
23  
24  
25  
26